

The Honorable Ronald B. Leighton

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

STORMANS, INCORPORATED doing
business as RALPH'S THRIFTWAY, et al.,

Plaintiffs,

V.

MARY SELECKY, Secretary of the
Washington State Department of Health, et
al.

Defendants.

Case No. C07-5374-RBL

**STIPULATION AND ORDER GRANTING
DEFENDANTS' AND DEFENDANT-
INTERVENORS' JOINT MOTION FOR
STAY OF PROCEEDINGS PENDING
DECISION BY THE NINTH CIRCUIT
COURT OF APPEALS**

This matter having come before the Court on Defendants' and Defendant-Intervenors' joint Motion for Stay of Proceedings Pending Decision by the Ninth Circuit Court of Appeals, and the Court having reviewed the papers filed by the parties, the record in this action, and any other pleadings and argument of the parties relevant to the issues raised therein, and the Court having asked the parties as a condition to entering the stay to reach an agreement on certain limitations in the event the Ninth Circuit Court of Appeals reverses the Order Granting Preliminary Injunction and vacates the preliminary injunction, and the parties having reached such an agreement as set forth below;

[PROPOSED] STIPULATION AND ORDER
GRANTING DEFENDANTS' AND
DEFENDANT-INTERVENORS' JOINT MOTION
FOR STAY OF PROCEEDINGS PENDING
DECISION BY THE NINTH CIRCUIT COURT
OF APPEALS - 1

*110505 (13438.00) (C07-5374 RBL)

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1 IT IS HEREBY ORDERED THAT Defendants' and Defendant-Intervenors' Motion
2 for Stay is GRANTED. All currently pending trial and pre-trial dates and Case Schedule
3 deadlines, including the deadline for submission of dispositive motions, are vacated, but only
4 to the extent not already passed and except as to pending discovery issues and any discovery
5 that the Court may order. Within ten days after the Ninth Circuit issues its mandate in this
6 case, the Court will hold a status conference to re-set the trial and other pre-trial dates,
7 including the deadline for submission of dispositive motions.

8 IT IS HEREBY FURTHER ORDERED THAT as a condition of granting the stay and
9 in the event the Ninth Circuit Court of Appeals reverses the Order Granting Preliminary
10 Injunction and vacates the preliminary injunction, the State Defendants agree that they will
11 not enforce WAC 246-863-095(4)(d) or WAC 246-869-010(4)(d) against any pharmacy
12 which, or pharmacist who, refuses to dispense Plan B but instead immediately refers the
13 patient either to the nearest source of Plan B or to a nearby source for Plan B pending trial.

14 IT IS HEREBY FURTHER ORDERED THAT as a condition of granting the stay and
15 in the event the Ninth Circuit Court of Appeals reverses the Order Granting Preliminary
16 Injunction and vacates the preliminary injunction, the State Defendants agree that they will
17 notify the Court if a complaint is received alleging a failure of any licensed pharmacy to
18 timely deliver Plan B in violation of WAC 246-869-010, or that any licensed pharmacy or
19 pharmacist has not complied with WAC 246-869-010 (4)(d) or 246-863-095 (4)(d), and the
20 Court will conduct a telephone conference to decide what steps, if any, may be taken by the
21 State Defendants with respect to investigating the complaint, and this will occur with each and
22

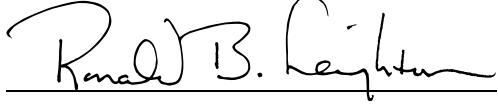
23 [PROPOSED] STIPULATION AND ORDER
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1 every such complaint received by the State Defendants until otherwise ordered by the Court
2 or until after a trial on the merits has concluded.

3 Dated this 4th day of March, 2009.
4

5 
6 RONALD B. LEIGHTON
7 UNITED STATES DISTRICT JUDGE

8 AGREED TO BY:

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